

OFFICIAL COPY

Fresno, California

December 4, 2001

The City Council met in regular session at the hour of 9:00 a.m. in the Council Chambers, City Hall, on the day above written.

Present:	Tom Boyajian	Councilmember
	Brian Calhoun	Councilmember
	Brad Castillo	Councilmember
	Jerry Duncan	Councilmember
	Sal Quintero	Councilmember
	Dan Ronquillo	Acting Council President
	Henry Perea	Council President

Dan Hobbs, City Manager
Andy Souza, Assistant City manager
Hilda Cantu Montoy, City Attorney
Becky Klisch, City Clerk
Yolanda Salazar, Assistant City Clerk

Vicar Josh Schoon, Peace Lutheran Church Missouri Synod, gave the invocation, and Michelle Vasquez, Powers Elementary School student, led the Pledge of Allegiance to the Flag.

PERFORMANCE OF "GOD BLESS THE USA" IN SIGN LANGUAGE BY THE 3RD GRADE CLASS OF POWERS ELEMENTARY SCHOOL

Performed..

PRESENTATION OF STUDENT RECOGNITION AWARDS FOR DISTRICT 4'S HIGH SCHOOL STUDENTS - COUNCILMEMBER CASTILLO

PROCLAMATION OF NATIONAL DAY OF PRAYER/CONCILIATION - COUNCILMEMBER QUINTERO

The above awards and proclamation were read and presented.

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APPROVE MINUTES OF NOVEMBER 27, 2001:

On motion of Councilmember Calhoun, seconded by Acting President Ronquillo, duly carried, RESOLVED, the minutes of November 27, 2001, approved as submitted.

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APPROVE AGENDA:

(11:00 A.M.) CLOSED SESSION:

(“A”) CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION

5. CASE NAME: BLACKSTONE VENTURE 1 V. CITY OF FRESNO

City Clerk Klisch corrected the above item as follows: “*CITY OF FRESNO V. BLACKSTONE VENTURE 1*”. So noted and corrected.

(1A-15a.) APPROVE A PROFESSIONAL SERVICES AGREEMENT WITH URS CORPORATION FOR THE MASTER PLANNING OF THE FRESNO YOSEMITE INTERNATIONAL AIRPORT FUNDED BY FEDERAL AVIATION ADMINISTRATION (FAA) AIRPORT IMPROVEMENTS PROGRAM (AIP) GRANT NO. -06-0087 AND FF02 ENTITLEMENT

Removed from the agenda at the direction of staff.

(3A) INTRODUCTION OF ORDINANCES ADDING SECTIONS TO THE FRESNO MUNICIPAL CODE FOR THE IMPLEMENTATION OF A RECIPROCITY AGREEMENT WITH THE CALIFORNIA PUBLIC EMPLOYEES RETIREMENT SYSTEM (CalPERS) AND APPROVE THE RECIPROCITY AGREEMENT WITH CalPERS

1.*BILL - ADDING SECTION 2-1745A TO THE FRESNO MUNICIPAL CODE PROVIDING FOR RECIPROCITY BETWEEN THE FIRE AND POLICE RETIREMENT SYSTEM AND CalPERS

2. * BILL - ADDING SECTION 2-1854 TO THE FRESNO MUNICIPAL CODE PROVIDING FOR RECIPROCITY BETWEEN THE EMPLOYEES RETIREMENT SYSTEM AND CalPERS

- and -

(1B-1) * BILL (FOR INTRODUCTION) - AMENDING SECTIONS OF THE FRESNO MUNICIPAL CODE RELATING TO ELIGIBILITY REQUIREMENTS OF THE POST RETIREMENT SUPPLEMENTAL BENEFIT IN THE FIRE AND POLICE RETIREMENT SYSTEMS

a. * BILL (FOR INTRODUCTION) - AMENDING SECTIONS OF THE FRESNO MUNICIPAL CODE RELATING TO ELIGIBILITY REQUIREMENTS OF THE POST RETIREMENT SUPPLEMENTAL BENEFIT IN THE EMPLOYEES RETIREMENT SYSTEM

City Clerk Klisch clarified the bills under **3A** were for introduction this date. Upon question of President Perea it was confirmed Item **1B-1** was related to **3A** and with Council consensus, Item **1B-1** was scheduled to be heard in conjunction with **3A**.

REQUEST CITY MANAGER TO PROVIDE DATE FOR STATUS REPORT ON THE CONVENTION CENTER PARKING STRUCTURE - COUNCILMEMBER DUNCAN

Request made.

On motion of Councilmember Calhoun, seconded by Councilmember Quintero, duly carried, **RESOLVED**, the **AGENDA** hereby approved, by the following vote:

Ayes	:	Boyajian, Calhoun, Castillo, Duncan, Quintero, Ronquillo, Perea
Noes	:	None
Absent	:	None

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ADOPT CONSENT CALENDAR:

(1A-1a.) DIRECT STAFF TO COMPREHENSIVELY REVISE THE FRESNO MUNICIPAL CODE ON TAXICAB REGULATIONS WHICH WOULD ALLOW FOR AN EFFICIENT AND EFFECTIVE APPROACH TO THE CITY'S PERMIT AND ENFORCEMENT PROCESSES FOR THE LOCAL TAXICAB INDUSTRY

(1A-5a.) CONSIDER CONTINUATION OF RESOLUTION NO. 01-337, WHICH PROCLAIMED A LOCAL EMERGENCY IN AND AROUND THE FRESNO YOSEMITE INTERNATIONAL AIRPORT BASED UPON THE THREAT OF ENEMY ATTACK OR SABOTAGE

1. * RESOLUTION NO. 01-387 - CONTINUING RESOLUTION NO. 01-337 WHICH PROCLAIMED A LOCAL EMERGENCY IN AND AROUND THE FRESNO YOSEMITE INTERNATIONAL AIRPORT, BASED UPON THE CONTINUING EXISTENCE OF FACTS AND CIRCUMSTANCES OF THE THREAT OF ENEMY ATTACK OR SABOTAGE

(1A-5b.) RESOLUTION NO. 01-388 - APPROVING THE 18TH EXPANSION OF THE FRESNO ENTERPRISE ZONE ADDING 2.5 ACRES FOR FRESNO FAB-TECH, INC., IN THE PROXIMITY OF MCKINLEY AND CHESTNUT AVENUES TO THE ENTERPRISE ZONE, AND AUTHORIZING STAFF TO COMPLETE ALL APPLICATIONS AND FILING WITH THE COUNTY OF FRESNO AND CALIFORNIA DEPARTMENT OF TRADE AND COMMERCE WHICH MAY BE REQUIRED TO FINALIZE THE INCLUSION OF FRESNO FAB-TECH, INC., PROPERTY INTO THE ENTERPRISE ZONE

(1A-11a.) APPROVE MEMORANDUM OF UNDERSTANDING (MOU) BETWEEN THE CITY AND THE FRESNO-MADERA AREA AGENCY ON AGING REGARDING THE USE OF OFFICE SPACE BY THE FRESNO POLICE DEPARTMENT ELDER ABUSE UNIT AT THE SENIOR RESOURCE CENTER

(1A-12b.) APPROVE A PROFESSIONAL SERVICES AGREEMENT WITH KENNETH D. SCHMIDT AND ASSOCIATES FOR PROFESSIONAL HYDROGEOLOGIC SERVICES FOR THE PUBLIC UTILITIES DEPARTMENT, AND AUTHORIZE THE PUBLIC UTILITIES DIRECTOR TO SIGN THE AGREEMENT ON BEHALF OF THE CITY

(1A-13a.) ACCEPT THE DEED OF EASEMENT FROM PHILIP V. AND JENNIE RODRIGUEZ; APPROVE AGREEMENT FOR THE ACQUISITION OF PROPERTY AT 115 E. NORTH AVENUE FOR THE NORTH AVENUE TRUNK SEWER PHASE II AT THE APPRAISED VALUE PRICE OF \$2,880; AND AUTHORIZE THE PUBLIC WORKS DIRECTOR TO EXECUTE ALL DOCUMENTS NECESSARY TO COMPLETE THE PURCHASE THROUGH ESCROW

(1A-13b.) RESOLUTION NO. 01-389 - 49TH AMENDMENT TO AAR 01-200 APPROPRIATING \$55,000 FOR EXPENSES RELATED TO PROPOSED CITY OF FRESNO COMMUNITY FACILITIES DISTRICT NO. 7 - TENTATIVE TRACT MAP NO. 4868

(1A-13c.) RESOLUTION NO. 01-390 - INTENT TO ANNEX FINAL MAP OF PARCEL MAP NO. 2000-23 TO THE CITY OF FRESNO COMMUNITY FACILITIES DISTRICT NO. 2, ANNEXATION NO. 33, AUTHORIZE THE LEVY OF SPECIAL TAXES, AND SETTING A PUBLIC HEARING FOR JANUARY 8, 2002, AT 10:00 A.M.

(1A-13d.) RESOLUTION NO. 01-391 - AUTHORIZING THE PUBLIC WORKS DIRECTOR TO ENTER INTO AGREEMENTS ON BEHALF OF THE CITY FOR EARLY CONSTRUCTION OF PUBLIC IMPROVEMENTS FOR SUBDIVISIONS

On motion of Acting President Ronquillo, seconded by Councilmember Calhoun, duly carried, RESOLVED, the above entitled **CONSENT CALENDAR** hereby adopted, by the following vote:

Ayes	:	Boyajian, Calhoun, Castillo, Duncan, Quintero, Ronquillo, Perea
Noes	:	None
Absent	:	None

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(3A) INTRODUCTION OF ORDINANCES ADDING SECTIONS TO THE FRESNO MUNICIPAL CODE FOR THE IMPLEMENTATION OF A RECIPROCITY AGREEMENT WITH THE CALIFORNIA PUBLIC EMPLOYEES RETIREMENT SYSTEM (CalPERS) AND APPROVE THE RECIPROCITY AGREEMENT WITH CalPERS

1.*BILL (FOR INTRODUCTION) - ADDING SECTION 2-1745A TO THE FRESNO MUNICIPAL CODE PROVIDING FOR RECIPROCITY BETWEEN THE FIRE AND POLICE RETIREMENT SYSTEM AND CalPERS

2. * BILL (FOR INTRODUCTION) - ADDING SECTION 2-1854 TO THE FRESNO MUNICIPAL CODE PROVIDING FOR RECIPROCITY BETWEEN THE EMPLOYEES RETIREMENT SYSTEM AND CalPERS

- and -

(1B-1) * BILL (FOR INTRODUCTION) - AMENDING SECTIONS OF THE FRESNO MUNICIPAL CODE RELATING TO ELIGIBILITY REQUIREMENTS OF THE POST RETIREMENT SUPPLEMENTAL BENEFIT IN THE FIRE AND POLICE RETIREMENT SYSTEMS

a. *BILL (FOR INTRODUCTION) - AMENDING SECTIONS OF THE FRESNO MUNICIPAL CODE RELATING TO ELIGIBILITY REQUIREMENTS OF THE POST RETIREMENT SUPPLEMENTAL BENEFIT IN THE EMPLOYEES RETIREMENT SYSTEM

Assistant City Manager Souza gave a brief overview of the issue as contained in the staff report as submitted. Councilmember Quintero made a motion, which was seconded by Councilmember Duncan, to introduce the above entitled ordinance bills as recommended by staff.

Discussion ensued with Mr. Souza and Retirement Administrator McDivitt responding to questions of Councilmembers Calhoun, Ronquillo and Castillo and/or clarified issues relative to no impact to the current budget, who generated the issue, if the employee units were in support, if STRS fit into the issue, Acting President Ronquillo requesting the exact cost to the city over a five year period of time and the exact number of eligible personnel before he makes a decision, if Fresno County's recent retirement system problems affected this in any way, who decides which employees are allowed into the system, if this would be made available to every city employee, and why long-term part-time employees would not be eligible. Councilmember Castillo expressed his concern stating it did not seem an effort was made to try to include the part-time employees stressing Council should have been informed of the issue and given all options, and made a motion to table the above items **3A** and **1B-1**.

On motion of Councilmember Castillo, seconded by Acting President Ronquillo, duly carried, RESOLVED, the above entitled Ordinance Bills listed under Item **3A** and **1B-1** tabled for two weeks for staff to report back with additional information requested by Acting President Ronquillo and Councilmember Castillo, by the following vote:

Ayes : Boyajian, Calhoun, Castillo, Ronquillo, Perea
 Noes : Duncan, Quintero
 Absent : None

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RECESS - 9:42 A.M. - 9:48 A.M.

(9:45 A.M.) APPEARANCE BY TERESA NEGRETE TO DISCUSS THE REVOCATION OF PARKING PERMIT FROM HER PLACE OF BUSINESS, "TERESA'S BEAUTY SALON", ON THE FULTON MALL

Not present when called. Council continued with the next agenda item and thereafter interrupted proceedings upon Ms. Negrete's arrival.

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(5A) REQUEST FOR CLARIFICATION ON THE 10% CONTINGENCY FROM EACH DEPARTMENT'S BUDGET AS PART OF THE ADOPTED FY 2001-2002 BUDGET - COUNCILMEMBER CASTILLO

Councilmember Castillo stated he wanted an understanding of what the 10% contingency meant to staff, each department head, and if 10% had, in fact, been set aside; advised he just learned public utilities staff was going to request Council to release their 10% for the surface water treatment plant adding that told him that staff, at some point, was given direction to put 10% aside and not spend it until allowed by Council; questioned how 10% could be put aside when departments heads were given the go ahead to spend at 100% stating that was an oxymoron; and requested an explanation on what the 10% contingency meant to the city and if it meant cuts at the end of the year stressed they should have been occurring throughout the year and explained, with City Manager Hobbs responding at length and clarifying issues as contained in his report to Council **(2 - 0)**.

At this point proceedings were interrupted to hear the **9:45 A.M.** item.

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(9:45 A.M.) APPEARANCE BY TERESA NEGRETE TO DISCUSS THE REVOCATION OF PARKING PERMIT FROM HER PLACE OF BUSINESS, "TERESA'S BEAUTY SALON", ON THE FULTON MALL

Ms. Negrete spoke in Spanish, with President Perea and Councilmember Castillo interpreting, stating she needed access to the alley for her business, advised of her problems with the permit, and stated a lot of attention was being given to the permits and not so much to the safety of workers and explained.

City Manager Hobbs advised there had been abuse with all day parking and the city was tightening up on the permit process, and Traffic Engineer Padilla reviewed the alley permit issue and process as outlined in the staff report.

An unidentified employee of Ida's Beauty Salon, who also spoke in Spanish (with Councilmember Castillo interpreting), stated the problem was their businesses dealt in cash transactions, advised they had been robbed, and stated the 30-minute parking did not work as they needed to leave their businesses throughout the day.

Speaking to the issue were: Barbara Hunt, 612 “F” Street; and Capt. Nevarez, Southwest Policing Supervisor, who spoke to the city’s efforts to create a safe environment, cleanup the downtown area, and pedestrian safety being an issue, and acknowledged alley parking had been allowed in the past but stated things were changing downtown.

Councilmember Castillo acknowledged the city’s efforts but stressed these were long-term Fulton Mall business people who were being affected and inconvenienced, stressed staff needed to work with them to find a solution instead of revoking their permits, and requested input from the Downtown Implementation Team (DIT), with Deputy City Manager Haynes, DIT member, stating the DIT supported staff’s position and clarified the alley permit ordinance has been in effect for fourteen but had just not been enforced.

Lengthy discussion ensued with Mr. Haynes, Capt. Nevarez and Mr. Padilla responding to questions, comments and/or concerns of Councilmember Castillo, President Perea, Acting President Ronquillo and Councilmembers Boyajian and Quintero relative to the functionality of all Fulton Mall lights for safety, what phase the mall lighting was now in, at what point in time safety on the mall would not be an issue, if there was an opportunity for a police satellite office downtown, the loyalty of downtown business and it being “wrong to turn our backs on them”, referring the matter back to staff to return in two weeks with options, the matter being directly related to the downtown parking problem and a money issue due to the cost for all day parking, need for official interpreters for these matters, why there was no verbage relative to violating the California Vehicle Code, personal vehicles being at issue, need for signs to tow cars legally, current parking rates, request for staff to look into a different type of permit for the businesses, existing provision for commercial vehicles who need over 30 minutes, if the businesses could obtain that special permit from the police department, past citations and how long the 30+ minute provision had been in effect, and request to also include in the report the definition of police department “discretion” on length of time vehicles are able to park.

By Council consensus the matter was continued two weeks to look at the issue further and report back with options.

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(10:00 A.M.) AWARD A CONTRACT FOR CONSTRUCTION OF A SURFACE WATER TREATMENT PLANT
1. * RESOLUTION NO. 01-392 - 55TH AMENDMENT TO AAR 01-200 APPROPRIATING \$1,447,600 TO COMPLETE FUNDING FOR THE CONTRACT AWARD OF THE SURFACE WATER TREATMENT PLANT
2. * RESOLUTION NO. 01-393 - APPROVING THE RECLASSIFICATION OF CONTINGENCY APPROPRIATIONS IN THE PUBLIC WORKS CAPITAL BUDGET AND BUDGET-HOLD CONTINGENCIES IN THE PUBLIC UTILITIES WATER DIVISION CAPITAL BUDGET FOR EXPENSES RELATED TO THE CONTRACT AWARD FOR CONSTRUCTION OF THE SURFACE WATER TREATMENT PLANT

Councilmember Duncan gave a brief overview of the issue stating the \$31 million investment was a critical element in the future of the city; advised the city had to stop withdrawing groundwater and the surface water treatment plant would allow for that; advised District 6 would benefit positively but the big impact would be city-wide and explained; advised financing was in place and there would be no rate increase to the ratepayers; and urged quick approval and made a motion to approve staff’s recommendation to adopt the resolutions and award the contract to IT Corporation, which motion was seconded and acted upon after lengthy discussion.

Interim Public Utilities Director McIntyre advised representatives of IT Corporation and Mauldin Dorfmeier were present and available to answer questions, stated this was a culmination of a collaborative effort between a number of agencies that participated in the development of the plan, and reviewed and gave, at length, a power point presentation on the how the issue came to this point, issues related to the nature of the award, and the financing, all as contained in the staff report as submitted (**3 - 0**), and advised it had recently come to his attention that IT's financial position was being questioned by some parties.

Speaking to the issue were: Chris Shay, Vice President of IT Corporation, who stated the financial position of his company was not an issue and that it was strong and he was confident they could perform the job on schedule and on time; Attorney Val Saldana, representing Mauldin-Dorfmeier, who requested Council delay the decision on the contract award due to the rapid decline in IT's financial condition and to determine whether they were a responsible bidder and explained; and Barbara Hunt, 612 "F" Street.

Lengthy discussion ensued with Purchasing Manager Taggart, Mr. McIntyre, Civil Engineering Technician Banuelos and Mr/ Saldana responding to questions and/or comments of Councilmembers Duncan, Ronquillo, Calhoun, Quintero, President Perea and Councilmember Boyajian relative to the appeal process timeline, if staff had any doubt about IT's financial ability, if the bond put up by IT Corp. would protect the city, if a vendor who was not selected had a right to base an appeal on factors such as stability of a company, vendors knowledge of the appeal process and timeline, no appeals received on the award, the request to release the 10% contingency set aside for the project not having any impact on the budget, funding and the payment by housing starts, if the city would be obligated in any way to provide service to other parties, need to deal with the major issue of water conservation, if the surface water treatment plant would still have been needed if Fresno had an aggressive water conservation program like Clovis, submitting the water meter issue to the voters in 2002, the original and current lowest bids being over budget, if staff was concerned with Mr. Saldana's comments, if subcontractors had been paid by IT Corporation, if 14 stop notices were common, if Mr. Saldana had seen the summary on the stop notices just submitted by Mr. Banuelos, (**4 - 0**) and Mr Saldana's comments relative to litigation and what the cause of action would be. A motion and second was to made to table the issue to look into IT Corporation's financial situation and brief discussion ensued on the timeline.

A motion of Councilmember Boyajian, seconded by Councilmember Castillo, to table the matter one week to look into IT Corporation's financial situation failed, by the following vote:

Ayes	:	Boyajian, Castillo
Noes	:	Calhoun, Duncan, Quintero, Ronquillo, Perea
Absent	:	None

Acting President Ronquillo commented briefly on reasons and typical processes that take place for stop notices and on the issue of developer fees fully funding the portion of the water treatment facility benefitting growth. Mr. McIntyre, Mr. Saldana, the Project Manager on the landfill sports complex, Mr. Banuelos, and an IT representative and Randy Bruno, Project Engineer for the project responded to additional questions and/or comments of Councilmembers Castillo, Ronquillo and President Perea relative to how the \$14 - \$18 million anticipated to be collected would be dealt with without hookup fees if an agreement is not reached between the city and the county, number of projects Mauldin Dorfmeier had that were of the same magnitude as the surface water treatment plant in the city and county, if Mr.

Saldana and IT were aware of any stop notices on Mauldin Dorfmeier's projects (including the airport expansion and stadium projects), Councilmember Castillo expressing concern with (1) the 14 stop notices on one project that IT Corporation is involved in, (2) subcontractors not being paid, and (3) local dollars being shipped back east with local contractors suffering financially and elaborating, request by Councilmember Quintero that Council be provided with an updated report on stop notices on the airport and stadium projects, if the project was already bonded if there was any way it could be refinanced to take advantage of low interest rates, number of stop notices on the summary that were free and clear relative to IT being able to release the funds to the subcontractors, and impact to local workers and IT's anticipated timeframe to deal with the stop notices and issue checks. President Perea requested IT provide a list to Council of all the subcontractors they pay off free and clear, and upon question, Ms. Taggart advised the Controller, the Risk Manager, Mr. McIntyre and Purchasing were on the city's team that evaluated the bid proposals and made the recommendation. President Perea stated a lot of concerns were expressed on IT's financial situation and Council was relying on staff's recommendation that IT was a viable company and the most responsible bidder.

On motion of Councilmember Duncan, seconded by Councilmember Calhoun, duly carried, RESOLVED, the above entitled Resolution No. 01-392 appropriating \$1,447,600 in additional funds for construction, inspection, contract compliance and contingency hereby adopted; the above entitled Resolution No. 01-393 hereby adopted; a minor irregularity is declared that a Certification of Intent from the instrumentation supplier was not submitted with the bid since a qualified instrumentation supplier was listed with the bid and full performance is otherwise stipulated throughout the specifications; and a contract hereby awarded to IT Corporation for the Base Bid and Additive Items "A", "C", "D", "E" and "F" in the amount of \$31,540, 639 for construction of a surface water treatment facility, by the following vote:

Ayes	:	Calhoun, Castillo, Duncan, Quintero, Ronquillo, Perea
Noes	:	Boyajian
Absent	:	None

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(11:00 A.M.) CLOSED SESSION:

(A) CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION

4. CASE NAME: CITY OF FRESNO V CITY OF CLOVIS, LAFCO AND COUNTY OF FRESNO

The Council met in closed session in Room 2125 at the hour of 11:55 a.m. to consider the above issue and adjourned for lunch thereafter.

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LUNCH RECESS - 12:29 P.M. - 2:03 P.M. Councilmember Quintero arrived later in the meeting.

(1A-5c.) * RESOLUTION NO. 01-394 - 56TH AMENDMENT TO AAR 01-200 APPROPRIATING \$136,000 FOR PAYMENT OF CONSULTING SERVICES BY MACIAS, GINI & COMPANY (OPTION #1 - FROM SAVINGS FROM LOW VARIABLE RATES PAID ON PENSION OBLIGATION BONDS)

1. * RESOLUTION - 56TH AMENDMENT TO AAR 01-200 APPROPRIATING \$136,000 FOR PAYMENT OF CONSULTING SERVICES BY MACIAS, GINI & COMPANY (OPTION #2 - FROM THE \$1 MILLION UNAPPROPRIATED RESERVE ACCOUNT)

Upon question of Councilmember Calhoun, Assistant City Manager Souza and City Manager Hobbs confirmed the matter should not have been placed on the consent calendar as two funding options were being presented for Council's consideration, and clarified staff was *not recommending* an option but presenting options and stating their *preferred* option was #2.

A motion and second was made for Option #1, and upon questions of Councilmembers Calhoun and Castillo, Mr. Souza and Mr. Hobbs clarified Option #1 was not related to the proposed restructuring to a fixed rate presented to Council last week. Upon question of Councilmember Duncan, Mr. Hobbs confirmed if Council had approved staff's recommendation last week there would have been no need for this \$136,000 vote and explained, with Councilmember Duncan stating for that reason he would not be supporting the motion. Brief discussion ensued.

On motion of President Perea, seconded by Acting President Ronquillo, duly carried, RESOLVED, the above entitled Resolution No. 01-394 (Option 1) hereby adopted, by the following vote:

Ayes	:	Boyajian, Calhoun, Castillo, Ronquillo, Perea
Noes	:	Duncan
Absent	:	Quintero

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(1A-12a.) * RESOLUTION NO. 01-395 - 51ST AMENDMENT TO AAR 01-200 APPROPRIATING \$120,967 TO IMPLEMENT A BEVERAGE CONTAINER RECYCLING PROGRAM

1. * RESOLUTION - 7TH AMENDMENT TO PAR 01-200 ADDING ONE(1) GRANT-FUNDED STAFF ASSISTANT POSITION IN THE SOLID WASTE MANAGEMENT DIVISION

Councilmember Duncan advised he was frustrated with the whole recycling system and the way it was being mandated by the State stating it was one of the biggest ripoffs the state was putting upon its citizens, stated his issue with this matter was the hiring of a staff assistant and questioned if there was a reason why staff did not take the concept of executing a promotional program and go with an advertising agency or marketing firm to administer the program, and stated another issue was the potential of the position staying on when the grant funds ran out. Councilmember Quintero arrived at 2:16 p.m. Interim Public Utilities McIntyre responded stating this was a mandatory program and he did not have adequate staff to deal with the dramatic and expanded recycling obligations and staff could not do an adequate job of administering the already existing grant-funded programs. Councilmember Duncan made a motion, seconded by President Perea, to refer the matter back to staff to return with the additional alternative of an RFQ for a marketing/advertising firm to administer the program and a cost comparison, which motion later amended and acted upon.

Mr. McIntyre and City Manager Hobbs clarified issues and/or responded to questions and comments of Acting President Ronquillo relative to how and what the grant funds would be spent on, Mr. McIntyre's comment on the challenges and demands of the new recycling requirements on staff, State law being nothing new as the issue had been going on for the past ten years, and staff not addressing the recycling program properly at all levels. Mr. Hobbs recommended the AAR be adopted and the PAR be held off for staff's report on the alternative option, whereupon Councilmember Duncan clarified execution of the program was the issue -- not acceptance of the grant, and modified his motion to adopt the AAR and direct staff to report back on the two alternatives of hiring staff and going outside

for proposals. President Perea accepted the amendment and stated he would like a preference shown for downtown marketing companies, and stated in supporting the motion he was coming at it from a different angle and explained. Councilmember Calhoun stated he hoped staff was not taking President Perea's request to look at downtown advertising agencies as Council consensus as he was opposed to directing business to any place in the city stressing it was the wrong message to send and clarified this was a city-wide program benefitting everyone.

Mr. McIntyre stated he would prefer the grant not be accepted until it is determined how the program will be administered, **(5 - 0)** with brief discussion ensuing and City Attorney Montoy clarifying the motion on the floor.

On motion of Councilmember Duncan, seconded by President Perea, duly carried, RESOLVED, the above entitled Resolution No. 01-395 hereby adopted, and staff directed to report back in one to two weeks on the two options to administer the program (hiring staff or going outside with a marketing/advertising firm), including a cost analysis, by the following vote:

Ayes	:	Boyajian, Castillo, Duncan, Quintero, Ronquillo, Perea
Noes	:	Calhoun
Absent	:	None

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(11:00 A.M.) CLOSED SESSION:

(A) CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION - CASE NAMES:

1. CLAYTON TURNER V. COF, ET AL.
2. BENJAMIN JONES AND ANGIL P. MORRIS V. COF, ET AL.
3. JASMINE RAMOS V. COF
4. CITY OF FRESNO V. CITY OF CLOVIS, LAFCO AND COUNTY OF FRESNO (CONTINUED FROM EARLIER)
5. CITY OF FRESNO V. BLACKSTONE VENTURE 1
6. A.H.D.C. V. COF, ET AL.

(B) CONFERENCE WITH LABOR NEGOTIATOR - EMPLOYEE ORGANIZATIONS:

1. INTERNATIONAL UNION OF OPERATING ENGINEERS, STATIONARY ENGINEERS LOCAL 39
2. INTERNATIONAL BROTHERHOOD OF ELECTRICAL WORKERS LOCAL 100 (IBEW)

(D) CONFERENCE WITH LEGAL COUNSEL - FRIEND-OF-THE-COURT-PARTICIPATION - CASE NAME: GORMAN V. EASLEY

(E) CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION - SIGNIFICANT EXPOSURE OF LITIGATION - CASE NAME: CITY OF FRESNO V. HEFFINGTON

The Council met in closed session in Room 2125 at the hour of 2:30 p.m. to consider the above matters and reconvened in regular open session at 4:47 p.m.

(C) THREAT TO PUBLIC SERVICES OR FACILITIES - CONSULTATION WITH CITY OF FRESNO POLICE DEPARTMENT, CHIEF OF POLICE JERRY DYER

Not held.

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(5B) CONSIDER APPROVAL FOR A COUNCIL OVERRIDE VOTE OF RESOLUTION NO. 01-353 CREATING THE COUNCIL ANALYST CLASSIFICATION, AND RESOLUTION NO. 01-354 ESTABLISHING THE COMPENSATION FOR THE COUNCIL ANALYST POSITION, VETOED BY MAYOR AUTRY ON NOVEMBER 8, 2001 - COUNCILMEMBER CALHOUN

- 1. RESOLUTION NO. 01-353 - CREATING THE COUNCIL ANALYST CLASSIFICATION**
- 2. RESOLUTION NO. 01-354 - ESTABLISHING THE COMPENSATION FOR THE COUNCIL ANALYST POSITION**

Reviewed by Councilmember Calhoun at length who clarified the intent of creating the classification was to (1) give each council member the flexibility to provide benefits to an existing staff member or one to be recruited to fill a vacancy in the future, (2) require the entire salary of that staff member, including the cost of benefits, to be paid for in full from the council member's existing budget, (3) allow council to continue to hire staff through the city manager's office providing the opportunity for additional oversight and eliminating the false argument of cronyism, (4) help curb the potential high turnover rate in the council offices, and (5) give council offices the same rights as the mayor's office as currently additional staff members in the mayor's office receive full health care benefits, vacation and sick leave, and a pension plan unlike the additional staff members in the council offices who are entitled to nothing in this regard; stated it was the belief of the council majority that originally approved the resolutions that validating the current hard-working employees that serve in the district offices did not violate the city charter adding the deputy mayor and two education liaison positions bore resemblance to this issue and explained; pointed out facts relative to there being no fiscal impacts to council's budget with this action, each council member currently having two or more staff members and emphasized in addition to each full time council assistant each district utilized an average of 69 hours of temporary labor per week to meet the needs of their district, and the city attorney confirming this action did not violate the city charter; addressed the "cronyism" issue and expressed his concern stating he resented that term and stressed council had outstanding individuals that worked very hard; stated the mayor's use of the September 11th attacks as an excuse for vetoing the resolutions was disingenuous at best and unfair at worst; and made a motion to override the vetoes, which motion was seconded and later acted upon.

City Manager Hobbs stated this issue was not directed at the good, intelligent, hardworking council staff members and advised he was going to hire as many people as possible as vacancies existed and talented people were needed; clarified the issue was about the city charter and elaborated; and stated he did not look for this issue but it was here and needed to be addressed and reiterated this was not about hard working employees, the deputy mayor or the educational positions but about the spirit and intent of the charter and how that provision read.

At this point proceedings were interrupted to allow Council to attend the Christmas Tree Lighting Ceremony on the second floor foyer.

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RECESS - 5:00 P.M. - 5:24 P.M.

(5B) CONSIDER APPROVAL FOR A COUNCIL OVERRIDE VOTE OF RESOLUTION NO. 01-353 CREATING THE COUNCIL ANALYST CLASSIFICATION, AND RESOLUTION NO. 01-354 ESTABLISHING THE COMPENSATION FOR THE COUNCIL ANALYST POSITION, VETOED BY MAYOR AUTRY ON NOVEMBER 8, 2001 - COUNCILMEMBER CALHOUN

Proceedings continued. Speaking in support of the motion to override the mayor's vetoes and to issues related to the classification and/or intent of the charter were: Ann Kloose, 6353 N. Lodi; Patricia Pinedo, 5267 E. Blossom Lane; Vicky Calderon, 3626 N. Delno; Heather Tostenson, 5017 W. Athens; Ana Manzula, 5640 E. Laurite; and Martha Lough, 8280 N. 6th Street.

Councilmember Boyajian commented briefly on the issue, stated he changed his position as he had met many employees who have worked for the city for ten, fifteen and more years who still did not have benefits and it was unfair and would be difficult for him to approve benefits for certain employees, commended his staff stating he would not change them for anyone and he wished they had benefits, and stated changes were needed and explained. Acting President Ronquillo stated the spirit and intent of the charter provision did not represent the citizens' view as it was crafted with an inability of a council at that time to understand what they were doing; stressed a third party person or council analyst was still needed to give council all information on complicated issues to make informed decisions and explained; advised he paid his staff \$1 to \$2 per hour additionally to they could purchase an insurance plan; and stated this issue should be looked at during budget. Councilmember Castillo commented on the irony of the earlier reciprocity agreement issue and staff's support for them to keep and recruit good employees; stressed this was not a budget issue but about keeping good employees and emphasized this would not add to the budget; and stated in the future when the spirit of the charter is talked about that the city remain consistent and explained; and clarified this was also optional to each council member. Councilmember Duncan stated he was proud of his two part-time employees but if this were passed and he decided to turn one into full-time with benefits he would have to lay one off as his funds were already committed; stated the way to deal with the issue was to change the charter; and stated he admired the opportunity to debate the issue but concurred with comments by Councilmembers Boyajian and Ronquillo on the hundreds of other employees that this would affect and not just the fine council staff members. President Perea stated the mayor made a decision on an incomplete set of facts as they truly existed; stated media coverage had been accurate but the editorializing by the Fresno Bee and Fresno Business Journal was terrible as they took the facts and said what they wanted to say which was a real disservice to the community; addressed and refuted several points in the mayor's veto memorandum **(6 - 0)**; and questioned whether Council had the ability under the charter to create an auxiliary arm or a department that would allow Council to have additional staff members working through the city manager's office, with City Attorney Montoy responding in the affirmative and clarifying this was a policy issue and not a legal one. President Perea emphasized this did not violate the spirit of the charter as the spirit would be no different than what the mayor has with respect to appointing a city manager and concluded addressing the mayor's memo.

A motion of Councilmember Calhoun, seconded by Councilmember Castillo, to override the Mayor's vetoes of Resolution Nos. 01-353 and 01-354 failed, by the following vote:

Ayes	:	Calhoun, Castillo, Perea
Noes	:	Boyajian, Duncan, Quintero, Ronquillo
Absent	:	None

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(5A) REQUEST FOR CLARIFICATION ON THE 10% CONTINGENCY FROM EACH DEPARTMENT'S BUDGET AS PART OF THE ADOPTED FY 2001-2002 BUDGET - COUNCILMEMBER CASTILLO
(CONTINUED FROM EARLIER)

With Council consensus, the matter was continued one week.

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CLOSED SESSION ANNOUNCEMENT

City Attorney Montoy advised in the matter of **11:00 A.M. "D"**, Friend-of-the-Court Participation, Gorman v. Easley, the Council voted 7 - 0 to join in the amicus action.

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ADJOURNMENT

There being no further business to bring before the Council, the hour of 6:02 p.m. having arrived and hearing no objections, President Perea declared the meeting adjourned.

APPROVED on the 11th day of December, 2001.

ATTEST:_____

Henry Perea, Council President

Yolanda Salazar, Assistant City Clerk

138-253

11/27/01